

FAS-930
(08-28-03)U.S. DEPARTMENT OF AGRICULTURE
Foreign Agricultural ServiceTRADE ADJUSTMENT ASSISTANCE (TAA) FOR FARMERS
PETITION FOR CERTIFICATION AND ELIGIBILITY FOR A GROUP OF PRODUCERS

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Trade Adjustment Assistance for Farmers, (Pub. L. 107-210). The information will be used to determine program eligibility. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in denial of program benefits. This information may be provided to other agencies.

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Please complete all requested information in this form and return it to the following address or fax to (202) 720-0876.

U.S. Department of Agriculture
Import Policies and Programs Division/FAS
1400 Independence Ave., S.W.
Stop 1021
Washington, DC 20250-1021

If you need assistance, telephone (202) 720-2916 or
e-mail your questions to:
trade.adjustment@fas.usda.gov.

1. Name of Authorized Representative or Primary Contact Shawn Jenkins		2. Name and Business Address (Including City, State, and Zip Code) Farmgate, LLC Route 1 Box 470 Coalinga, CA 93210	
3. Telephone Number (Including Area Code) 559-884-1000		5. E-Mail Address shawnjenkins@farmgate.biz	
4. Fax Number (Including Area Code) 559-884-2100			
6. This petition is made on behalf of the following producers: (Use separate sheet for additional producers)			
A. Name of Producers	B. Mailing Address	C. Telephone No. (Including Area Code)	D. E-Mail Address
Farmgate, L.L.C.	Coalinga, CA 93210		shawnjenkins@farmgate.biz
Harris Farms	Coalinga, CA 93210		
Double D Farms	Coalinga, Ca 93210		N/A

7. COMMODITY INFORMATION:	
A. Description of the raw (excludes processed) agricultural commodity (e.g., fresh raspberries) FRESH GARLIC Whole & Peeled	B. Commodity's Harmonized Tariff Schedule (HTS) Number (HTS can be found at: http://www.fas.usda.gov/ustrade/) 0703200000
C. This petition is for the most recent marketing year for the commodity beginning in <u>10/2002</u> and ending <u>9/2003</u> (month/year) (month/year)	
D. Check whether the certification is to cover a commodity produced nationally or in an "impacted" area (state or states): <input type="checkbox"/> National <input checked="" type="checkbox"/> State(s) (list): <u>California</u>	

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8. If Item 7D "National" is checked, provide the national average annual price for the most recent marketing year and the 5 preceding marketing years. If Item 7D "State(s)" is checked to indicate that the petition is for an impacted area, provide the relevant average price for the most recent marketing year and the 5 preceding years, and specify the months being averaged if the price is for less than 12 months (seasonal price).

(NOTE: National price data is available for many raw agricultural commodities from the Department's National Agricultural Statistical Service (NASS) at: www.usda.gov/nass.)

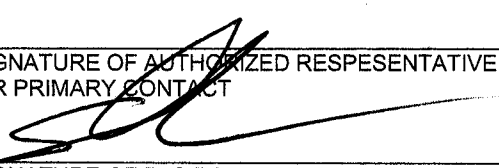
A. Marketing Year	B. Average Annual Price				
Most recent:	\$ 26.00 cwt				
Provide prices for the 5 years prior to the most recent marketing years. Beginning with the most recent.	C. 5-Year Average Annual Price				
	1 Year ago	2 Years ago	3 Years ago	4 Years ago	5 Years ago
	\$ 31.50 cwt	\$ 29.40 cwt	\$ 29.60 cwt	\$ 37.70 cwt	\$ 47.90 cwt

9. Basis for request for adjustment assistance. Please explain or attach any documents, which show how increased imports have affected the national price of your product during the most recent marketing year. In your description include any other factors which may also have contributed to lower producer prices.

Chinese export dumping of Garlic

Chinese garlic being imported as Thailand garlic.

Attached Report from Fresh Garlic Producers Assoc.
SEE ATTACHMENT

10A. SIGNATURE OF AUTHORIZED REPRESENTATIVE OR PRIMARY CONTACT 	10B. TITLE Shawn Jenkins ACCOUNTANT	10C. DATE SIGNED 9/29/03
11A. SIGNATURE OF FAS REPRESENTATIVE	11B. TITLE	11C. DATE

ATTACHMENT

Collier Shannon Scott

Collier Shannon Scott, PLLC
Washington Harbour, Suite 400
3050 K Street, NW
Washington, DC 20007-5108
202.342.8400 TEL
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Michael J. Coursey
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MEMORANDUM

January 22, 2003

**TO: GARY CANEZA
BILL CHRISTOPHER
JOE LANE
JOHN LAYOUS
FRANK PITTS
JON VESSEY**

FROM: MICHAEL J. COURSEY

**RE: EIGHTH ADMINISTRATIVE REVIEWS OF THE ANTIDUMPING
DUTY ORDER ON FRESH GARLIC FROM CHINA**

In October of last year, we recommended to the FGPA that it focus its resources on pursuing a Section 421 action, as opposed to defending against the administrative reviews many Chinese exporters were sure to request in November 2002. This advice was based upon the following facts:

- (1) the huge amount of Chinese garlic that entered the U.S. market in 2002 through the "new shipper" loophole in the antidumping law;
- (2) the likelihood that many Chinese "new shippers" would exploit this loophole in 2003, and into the future;
- (3) the prospect that Commerce would likely issue zero dumping margins to two major Chinese exporters (Jinan Yipin and FHTK) in late 2002 and early 2003;
- (4) the ability of the FGPA to seek a quota on Chinese garlic imports through prosecution of a "market disruption" trade action under Section 421 of the trade laws; and
- (5) the FGPA's limited resources for continuing to both defend the antidumping duty order on fresh garlic from China and pursue relief under Section 421.

The FGPA membership agreed, and authorized us to determine the feasibility of a Section 421 action while preparing a Section 421 petition for filing in early January 2003. Although our collection of relevant data from the FGPA members is not wholly complete, we have determined that the domestic producers, as a whole, are not experiencing the degree of

material injury as a result of the influx of fresh Chinese garlic imports in 2002 that would be needed to win a Section 421 case. While Chinese imports clearly have increased by a huge amount over the last couple of years, the information we have been able to gather does not show that the domestic producers have been materially injured by these imports. While we are still awaiting more refined information from some FGPA members, it does not appear that this refined information would result in a change in our analysis. The bottom line is that we could not recommend the FGPA proceeding with this Section 421 case at this time.

In this memorandum, we present our estimate of legal costs the FGPA would incur were it to again focus during the 8th cycle of administrative review of the fresh Chinese garlic dumping order in attempting to defeat the Chinese exporters' attempts to obtain a company-specific dumping margin that is significantly lower than the China country-wide dumping rate of 376.67 percent that currently applies to all but one exporter in China.

There are 11 exporters -- 7 from China, 1 from Vietnam, 2 from the Philippines, and 1 from Thailand -- that pose a threat to FGPA interests in the 8th cycle of administrative review. Each of these exporters is individually discussed below. Our total estimated legal costs for all 11 ranges between **\$450,000 and \$550,000** (depending on whether the exporters in Vietnam and Philippines actively participate in the review).

Further, and as discussed below, there is a good chance that a substantial amount of paid-in dumping duties could be received by eligible members of the domestic industry under the Byrd Amendment (assuming that law is not repealed by Congress), particularly in connection with the administrative review of the two Sunnyville-related Chinese exporters, Clipper and Shandong Heze.

I. CHINESE EXPORTERS LIKELY TO BE HEAVILY INVOLVED IN THE EIGHTH REGULAR ADMINISTRATIVE REVIEW

The Chinese exporters that will be most involved in the 8th administrative reviews, and would require the greatest amount of the resources the FGPA would expend in defending against the 8th review, will be the three Chinese exporters that requested new shipper reviews in November 2001: Shandong Heze, Jinan Yipin, and Hongda. These exporters were the only Chinese exporters whose imports could be entered into the United States with the use of a bond, as opposed to cash, to satisfy the dumping duty deposit requirement. None of these three exporters shipped during the first two months of the 8th period of review ("POR") (i.e., November-December 2001), because Commerce did not initiate these new shipper reviews until the very end of December 2001, and Customs would not have received Commerce's instructions concerning the bonding privileges for the importers of the three "new shipper" exporters until sometime in January 2002.

The last ten months of the 8th POR run from January to October 2002. Official U.S. import statistics show that during these ten months, about 39.30 million pounds of fresh garlic from China was entered into the United States as having originated in China. (In other words,

this amount is exclusive of any fresh Chinese garlic that was transshipped through third countries into the United States during the first ten months of 2002.) The aggregate FOB value of the Chinese imports, again according to U.S. import statistics, was \$19.07 million (which results in an FOB China AUV of \$.49/lb.).

Were Commerce to finally assess dumping duties against all of these imports at the 376.67 percent countrywide rate, the total amount of dumping duties owed would be **\$71.83 million** (i.e., 19.27 million x 376.67%). Customs has assured us that all of the shipments from the three "new shipper" exporters are covered by single entry bonds, so we can have a high degree of confidence that any dumping duties finally assessed against these three exporters for their shipments during the 8th POR will be paid into the U.S. Treasury, where they will be disbursed to eligible U.S. producers under the Byrd Amendment.

It is highly unlikely that Commerce will issue final dumping rates of 376.67 percent against all three "new shipper" exporters at the end of the 8th administrative review. Nevertheless, and as discussed below, it is very likely that a significant amount of antidumping duties will be finally assessed against these three exporters. By actively opposing these three exporters in the 8th review, the FGPA members would ensure that (1) the new cash deposit rate calculated for these exporters in the 8th review is as high as possible, and (2) the maximum amount of duties is assessed and collected for fresh Chinese garlic imported during the 8th POR.

A. Shandong Heze

Panjee/Sunnyville in essence replaced the Chinese exporter, Clipper, with Shandong Heze once it became clear that Clipper was likely to lose its new shipper ("NS") review. (See discussion below on Clipper.) According to the monthly ship manifest reports, Clipper stopped exporting Chinese fresh garlic to the United States by the end of 2001 (Commerce rescinded the Clipper NS review in March 2002), and Shandong Heze made its first substantial shipments of fresh garlic to the United States in March 2002. Commerce rescinded the Shandong Heze NS review in late October 2002, on the ground that Shandong Heze failed to supply the requisite certificate from its Chinese supplier concerning non-involvement in the original dumping investigation. Commerce did not rule on all of the many other reasons we had argued in support of a negative finding for Shandong Heze. We can make again all of these arguments against Shandong Heze in the 8th administrative review.

Because Shandong Heze's U.S. importers retained the right to post bonds to cover potential liabilities for dumping duties, as opposed to cash duty deposits, until Shandong Heze's NS review was rescinded, Shandong Heze likely shipped a substantial part of the 39.3 million pounds of Chinese garlic that entered the United States during the last 10 months of the 8th POR. It is unlikely that Shandong Heze has shipped any Chinese fresh garlic to the United States since November 2002, because its importers' ability to bring imports into the United States under bond was revoked as of the end of October 2002.

As noted, we were able to get Shandong Heze's NS review revoked, and its imports again subjected to the 376.67 cash duty deposit rate. Given the general decline in Chinese prices over 2002, and our earlier success against Shandong Heze's counsel, there is a very good chance that we would convince Commerce to calculate significant dumping duties on Shandong Heze's 8th POR shipments. Any duties collected would be distributed to eligible FGPA members under the Byrd Amendment.

Estimated Legal Costs: \$50,000.

B. Jinan Yipin

Commerce initiated the Jinan Yipin NS review in January 2002, and according to the ship manifest reports, Jinan Yipin made its first substantial shipments of fresh garlic to the United States in March 2002. Commerce issued its final results for the Jinan Yipin NS review in early December 2002, so Jinan Yipin's U.S. importer (its U.S. subsidiary, American Yipin) had the ability to import from Jinan Yipin for the last ten months of the eighth POR under bond. (Because Commerce assigned Jinan Yipin a zero percent dumping margin in the final results of its NS review, since early December 2002, American Yipin has not been required to post either a bond or a cash deposit for its Chinese fresh garlic imports from Jinan Yipin.)

We have circumstantial evidence that Jinan Yipin brought in 200 or more containers of fresh Chinese garlic during the first ten months of 2002. We also have evidence that Jinan Yipin was forced to sell much of this product at prices well below the price it sold the single shipment that was at issue in its NS review.

Thus, there is a good chance that Jinan Yipin dumped a significant portion of its 2002 shipments, and that Commerce will determine in the 8th review that Jinan Yipin owes significant dumping duties on these shipments. Indeed, it is not uncommon for the Commerce Department to calculate a zero margin for a company in an NS review (where the companies requesting a review typically report only a single, small volume sale that gives them the ability to ensure they will receive a zero margin) and subsequently find the company to have dumped subject merchandise in the United States in the next full annual review period. Because the foreign producers/exporters typically have many more shipments being reviewed in a subsequent administrative review, it is much more difficult for them to mask their dumping product into the United States. In short, it is relatively easy for a respondent to manipulate a single sale to obtain a zero margin in a NS review, but is much more difficult to mask dumping that occurs during the year-long period examined in an annual administrative review.

For example, assume Jinan Yipin entered 200 containers of fresh garlic during the 8th POR. This would amount to 8.4 million pounds. Assume that Jinan Yipin's FOB China AUV for the 8th POR was \$.40/lb. The total value of Jinan Yipin's shipment would be \$3.36 million. Assume also Commerce calculated an average dumping margin for Jinan Yipin for the 8th POR of 20 percent. The amount of dumping duties American Yipin (as Jinan Yipin's sole U.S.

importer) would owe under these assumed facts for the 8th POR would be \$672,000 (i.e., 8.4 million pounds x \$.40 x 20% = \$672,000).

Estimated Legal Costs: \$70,000.

C. Hongda

Commerce rescinded the Hongda NS review in the spring of 2002 after ruling that the single shipment at issue was not made until November 2001, which was after the end of the relevant POR. Commerce, however, initiated another NS review covering Hongda (which is ongoing now) that will examine the single sale originally reported by Hongda in the first NS review, as well as several additional shipments made subsequent to that time. Because the current Hongda NS review is examining all sales made by Hongda between Nov. 1, 2001 and April 31, 2002, the 8th administrative review will cover only those shipments made by Hongda between May-October 2002. We have evidence that Hongda made substantial shipments to the United States during this six-month period, although far less than were made by Shandong Heze and Jinan Yipin.

Estimated Legal Costs: \$50,000.

D. Golden Light

Golden Light is the exporter in Thailand that has been shipping Chinese product through Thailand to the United States (largely to Merex). At our request, Commerce has included Golden Light in its 7th administrative review. Golden Light did not respond to Commerce's request for information prior to the Department's issuance of its preliminary results in the 7th review, in which Commerce issued Golden Light an adverse facts available rate of 376.67 percent.

In the 11th hour of the 7th review, the law firm of Grunfeld Desiderio appeared on behalf of Golden Light, and argued that Commerce should rescind the review of Golden Light because that company never received the questionnaire Commerce sent it. We were surprised to learn today when Commerce announced the final results of the 7th administrative review that Commerce accepted this argument and rescinded its review of Golden Light.

We asked Commerce to include Golden Light in the 8th administrative review, and Golden Light's counsel has already entered an appearance on behalf of Golden Light in that review, and has filed an application for access to confidential information placed on the record concerning Golden Light. It thus appears that Golden Light will put up a fight in the 8th review.

We believe that Golden Light is the only entity in Thailand that exported product to the United States during the 7th and 8th PORs. For the 8th POR (November 2001-October 2002), Thailand shipped 6.10 million pounds of fresh garlic (all of which, we believe, originated in China) to the United States at a total FOB value of \$2.15 million. Assuming these imports were

importer) would owe under these assumed facts for the 8th POR would be \$672,000 (i.e., 8.4 million pounds x \$.40 x 20% = \$672,000).

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all hit with the 376.67 percent China-wide dumping rate, the total amount of dumping duties owed would be about **\$9.47 million**.

Estimated Legal Costs: \$50,000.

II. CHINESE EXPORTERS THAT WILL REQUIRE FEWER FGPA RESOURCES IN OPPOSING THEIR PARTICIPATION IN THE 8TH ADMINISTRATIVE REVIEW

A. Clipper Manufacturing Ltd.

We believe that the combined amount of \$17.45 million in dumping duties is owed by Clipper's U.S. importers (i.e., Panjee/Sunnyville) for Clipper's exports to the United States during the 7th (11/00-10/01) and 8th (11/01-10/02) PORs. We also believe that the FGPA would have to expend very few resources in opposing Clipper in the 8th review. The specifics are discussed below.

1. Clipper's NS Review

You will recall that Clipper participated in the first NS review under the China fresh garlic dumping order, which was initiated by Commerce in December 2000, but was not completed until March 2002. Commerce ultimately rescinded the Clipper NS review and ordered Customs to require a 376.67 percent cash deposit on all future imports from Clipper.

During the NS review, Clipper's apparent importer (i.e., Panjee/Sunnyville) was able to satisfy the 376.67 percent duty deposit requirement by posting a bond, as opposed to posting cash. In 2001, Clipper was the only Chinese exporter able to have the dumping duty deposit requirement on its imports satisfied by a bond, as opposed to cash. We can thus safely assume that virtually all of the 2001 imports from China came from Clipper.

Total imports from China in 2001 were 7.93 million pounds at a declared FOB value of \$4.63 million. We know that Clipper did not begin to export substantial amounts of garlic to the United States until January 2001, because that was the first month in which Clipper's importers were authorized to post duty deposits with bonds. The seventh period of review covers the one-year period from November 2000-October 2001. During the first ten months of 2001 (i.e., the last ten months of the seventh POR), it appears that Clipper shipped 4.77 million pounds of fresh garlic to the United States, with a declared FOB value of \$2.80 million (i.e., \$.59/lb.). Thus, Clipper theoretically has about **\$10.55 million** at stake for the seventh POR in the form of potential antidumping duties (i.e., \$2.80 million x 376.67 percent = \$10.55 million).

2. 7th Administrative Review

In November 2001, both Clipper and the FGPA asked that Clipper be included in the 7th review. As you know, Commerce in its preliminary results of the seventh review preliminarily assigned Clipper an adverse facts available dumping rate of 376.67 percent. Commerce affirmed

this ruling today in its final results of the 7th review. Commerce will now instruct the U.S. Customs Service ("Customs") to liquidate all of Clipper's entries for the seventh POR at the 376.67 percent rate, which should result in a total antidumping liability for Clipper's apparent importer (i.e., Panjee/Sunnyville) of about **\$10.55 million**. Customs has represented to us that all of these entries are covered by single entry bonds, which means that one or more insurance companies will be liable for this \$10.55 million if Clipper's importers refuse to pay it.

Unless Clipper appeals Commerce's final results of the 7th review to the U.S. Court of International Trade ("CIT"), Customs would begin attempting to collect the \$10.55 million almost immediately after Commerce's announcement of the 7th review final results. Assuming that Clipper does not appeal the final results, the FGPA can merely wait to see how much Customs ultimately collects. Any amounts collected by Customs prior to the end of September 2003 would be available for payout to eligible FGPA members under the Byrd Amendment during the fourth quarter of 2003.

3. 8th Administrative Review

The POR for the eighth administrative review is November 2001-October 2002. We know that Clipper was the only Chinese exporter able to ship product to the United States under bond during the last two months of 2001 (which are the first two months of the eighth POR.). It is thus likely that virtually all of the fresh garlic shipments from China during the last two months of 2001 came from Clipper.

During these two months, 3.16 million pounds of fresh garlic from China were entered into the United States, with a declared FOB value of \$1.83 million. Were the China-wide rate of 376.67 percent applied to this amount, Clipper's U.S. importers would owe **\$6.90 million** in dumping duties. On behalf of the FGPA, we requested an administrative review of Clipper's entries during the 8th POR. Clipper, however, did not itself ask to participate in the 8th review. Once we determined that Clipper did not ask to participate in the 8th review, we withdrew the FGPA's review request for Clipper.

As a result, Commerce will soon terminate the 8th review as to Clipper, and immediately instruct Customs to liquidate Clipper's entries for the 8th POR at the 376.67 percent rate. Assuming that Clipper's U.S. importers default on Customs' demand to pay the duties, Customs would promptly demand payment from the issuer of the bonds that were posted by the importer as collateral against their failure to pay any dumping duties finally assessed. Again, all amounts actually collected by Customs before the end of September 2003 would be distributed to eligible FGPA members under the Byrd Amendment by the end of 2003.

Estimated Legal Costs: Less than \$1,000.

B. Good Fate International, Phil Sino International Trading Inc., and Mai Xuan Fruitex Co., Ltd.

The first two companies listed are exporters in the Philippines of fresh garlic (which we believe to have originated in China) to the United States. We asked Commerce to investigate these two companies in the context of the 8th administrative review. During the 8th POR (i.e., November 2001-October 2002), the Philippines shipped 2.6 million pounds of fresh garlic (which we believe originated in China) to the United States with a declared FOB value of \$974,000. Were the 376.67 percent China-wide dumping rate to be applied to this amount, the total amount of duties owed by the importers of the Philippine exporters would be \$3.67 million.¹

We believe it is highly unlikely that these two Philippine exporters will retain trade counsel and attempt to defend themselves in the 8th administrative review. If these exporters do not appear, the cost to the FGPA of participating in these reviews would primarily consist of the cost of retaining a foreign market researcher in the Philippines to tie these two exporters to transshipped Chinese product.

The third exporter, Mai Xuan Fruitex, is the Vietnamese exporter responsible for shipping substantial amounts of fresh garlic (which we believe originated in China) to the United States, and specifically to an Oakland, California importer called Trade Farm, which is operated by Danny Tsang, who is still being prosecuted by Customs for his attempt to circumvent the Chinese fresh garlic order back in 1995.

During the 8th POR (11/01-10/02), Vietnam shipped 1.64 million pounds of fresh garlic (which we believe originated in China) to the United States, with a total FOB value of \$576,000. Were the China-wide rate of 376.67 percent to be applied to all imports from Vietnam during the 8th POR, the total amount of dumping duties owed on these shipments would be \$2.17 million.²

Estimated Legal Costs:

- If the exporters fail to participate: **\$20K** (\$10K for FMR in the Philippines, \$10K for legal work)
- If exporters participate: **\$120K** (additional \$100,000).

¹ While Good Fate and Phil Sino do not account for all U.S. imports of fresh garlic from the Philippines, they are both significant exporters, and the Commerce Department's assignment of the 376.67 percent rate would result in the collection of substantial dumping duties.

² While Mai Xuan does not account for all U.S. imports of fresh garlic from Vietnam, it is a significant exporter, and the Commerce Department's assignment of the 376.67 percent rate would result in the collection of substantial dumping duties.

III. THREE NEW NS REVIEWS REQUESTED FOR THE 8TH POR CYCLE

The following three Chinese exporters requested a NS review in November 2002:

- Jining Trans-High, represented by White & Case,
- Xiangcheng Yisheng Foodstuffs, represented by Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt, and
- Zhengzhou Harmoni Spice Co., represented by Lee & Xiao.

At our repeated request, Commerce has instituted a safeguard for the garlic NS reviews which theoretically should result in new shippers exporting significantly less product to the United States during the pendency of the NS reviews than has been the case for the last two NS review cycles. Specifically, Commerce has limited the bonding privilege of the importers of the new shippers to importations of fresh garlic that were either entirely produced by the exporter (if the exporter has claimed in its request for a NS review that it is the producer of the product shipped to the United States that is subject to the NS review), or product produced by the specific producer from whom the exporter obtained the garlic that is subject to the NS review.

For example, in Commerce's notice of initiation of the current cycle of NS reviews (attached), Commerce stated that it is allowing the bonding option for importers of the new shipper Zhengzhou only to importations where Zhengzhou is both the producer and the exporter, based upon Zhengzhou's claim that it was the producer and exporter of the garlic sold in the single sale that is subject to the NS review. For the other two exporters, Commerce has limited the importers' bonding privilege to importations of product (1) produced by the Chinese producer of the fresh garlic that comprised the sale that is the focus of the NS review; and (2) exported by the exporter involved in the sale under review. None of the four other Chinese exporters involved in the sixth and seventh cycles of NS reviews had their bonding privilege limited in this matter.

Estimated Legal Costs: \$210K (\$70K each).

IV. SUMMARY

As noted at the outset of this memorandum, it is unlikely that the FGPA will be successful in prosecuting a Section 421 trade action this winter or spring against fresh Chinese garlic imports. We have described in this memorandum the 11 exporters in China and 3 other Asian countries that are participating in Commerce's 8th cycle of administrative reviews. Should the FGPA decide to participate in these reviews, the estimated legal costs for such participation would range between \$450,000 and \$550,000 (depending on whether certain exporters in Vietnam and the Philippines actively participate in the reviews).

If the FGPA does not participate in these reviews, it is likely that 10 of the 11 exporters will receive very low, or zero, dumping margins in their individual reviews, which will enable

January 22, 2003
Page 10

these exporters to ship unlimited amounts of fresh garlic from China to the United States without posting either cash or a bond to protect against any future dumping liability that might be found against these shipments. It is also likely that bonds worth many millions of dollars that secure the potential payment of dumping duties for 3 exporters -- Shandong Heze, Jinan Yipin, and Hongda -- will be extinguished.

A decision on whether the FGPA is going to participate in these reviews should be reached promptly. The Commerce Department has already circulated its questionnaires to the Chinese producers/exporters and the responses are due shortly. I suggest that we have a conference call on **Wednesday, January 29, at noon (EST) (9:00 a.m. (PST))**. Please let my secretary, Sylvia Fischer (202-945-6637; sfischer@colliershannon.com) know whether this is a convenient time for you. I will circulate an agenda covering this and a few other matters which need to be discussed.

In the meantime, should you have any questions about this memorandum, please do not hesitate to call me.

cc: John M. Herrmann
Attachments

ATTACHMENT

on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technical collection techniques or other forms of information technology. Comments may be sent to: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250-1522. FAX: (202) 720-4120.

Title: 7 CFR part 1728, Electric Standards and Specifications for Materials and Construction.

Type of Request: New collection.

Abstract: The Rural Utilities Service makes loans and loan guarantees in accordance with the Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*, (RE Act). Section 4 of the RE Act requires that RUS make or guarantee a loan only if there is reasonable assurance that the loan, together with all outstanding loans and obligations of the borrower, will be repaid in full within the time agreed. In order to facilitate the programmatic interests of the RE Act, and, in order to assure that loans made or guaranteed by RUS are adequately secure, RUS, as a secured lender, has established certain standards and specifications for materials, equipment, and the construction of electric systems. The use of standards and specifications for materials, equipment and construction units helps assure RUS that: (1) Appropriate standards and specifications are maintained; (2) RUS loan security is not adversely affected; and (3) loan and loan guarantor funds are used effectively and for the intended purposes. 7 CFR 1728 establishes Agency policy that materials and equipment purchased by RUS electric borrowers or accepted as contractor-

furnished material must conform to RUS standards and specifications where they have been established and, if included in RUS IP 202-1, "List of Materials Acceptable for Use on Systems of RUS Electrification Borrowers" (List of Materials), must be selected from that list or must have received technical acceptance from RUS.

Estimate of Burden: This collection of information is estimated to average 20 hours per response.

Respondents: Businesses or other for profits.

Estimated Number of Respondents: 38.

Estimated Number of Responses per Respondent: 2.30.

Estimated Total Annual Burden on Respondents: 1,760 hours.

Copies of this information can be obtained from Michele Brooks, Program Development and Regulatory Analysis, at (202) 690-1078. FAX: (202) 720-4120.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: December 18, 2002.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 02-32462 Filed 12-24-02; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: December 24, 2002.

FOR FURTHER INFORMATION CONTACT:

Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482-4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2002), for administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates.

Initiation of Reviews:

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than November 30, 2003.

Antidumping Duty Proceedings		Period to be Reviewed
Mexico: Circular Welded Non-alloy Steel Pipe, A-201-805	.....	11/1/01-10/31/02
Hysla, S.A. de C.V.	.....
Niples Del Norte, S.A. de C.V.	.....	5/3/01-10/31/02
Netherlands: Certain Hot-Rolled Carbon Steel Flat Products, A-421-807	.....
Corus Staal BV	.....	11/1/01-10/31/02
Republic of Korea: Circular Welded Non-Alloy Steel Pipe, A-580-809	.....
Hyundai Hysco (formerly Hyundai Steel Pipe Company)	.....
Husteel Co., Ltd. (formerly Shinho Steel Co., Ltd.)	.....	5/3/01-10/31/02
Seah Steel Corporation, Ltd.	.....
Romania: Certain Hot-Rolled Carbon Steel Flat Products, A-485-806	.....
Sidex Trading, SRL & Sidex International, PLC	.....	5/3/01-10/31/02
Metanef, S.A.	.....
Metagrimec, S.A.	.....	5/3/01-10/31/02
Thailand: Certain Hot-Rolled Carbon Steel Flat Products A-549-817	.....
Nakornthai Strip Mill Public Co., Ltd.	.....
Sahaviriya Steel Industries Public Co., Ltd.	.....	11/1/01-10/31/02
Siam Strip Mill Public Co., Ltd.	.....
The People's Republic of China: Fresh Garlic,* ¹ A-570-831	.....
* Clipper Manufacturing Ltd.	.....

	Period to be Reviewed
<ul style="list-style-type: none"> * Fook Huat Tong Kee Pte., Ltd. * Huaiyang Hongda Dehydrated Vegetable Company * Jinan Yipin Corporation, Ltd. * Shandong Heze International Trade and Developing Company * Top Pearl Ltd. * Wo Hing (H.K.) Trading Co. * Golden Light Trading Company, Ltd. * Good Fate International * Phil-Sino International Trading Inc. * Mai Xuan Fruitex Co., Ltd. 	

* If one of the above named companies does not qualify for a separate rate, all other exporters of fresh garlic from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

¹ While the petitioners requested a review of Zhengzhou Harmoni Spice Co., Ltd. and Xiangcheng Yisheng Foodstuffs Co., Ltd., the companies requested that the Department initiate new shipper reviews. Based upon our initial examination of their new shipper review request, we believe that they are new shippers of subject merchandise. If this turns out not to be the case, we will include Zhengzhou Harmoni Spice Co., Ltd. and Xiangcheng Yisheng Foodstuffs Co., Ltd. in the normal administrative review.

Countervailing Duty Proceedings

None.

Suspension Agreements

None.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under § 351.211 or a determination under § 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: December 19, 2002.

Holly A. Kuga,

Senior Office Director, Group II, Office 4,
Import Administration.

[FR Doc. 02-32570 Filed 12-24-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration [A-427-814]

Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of stainless steel sheet and strip in coils from France.

SUMMARY: On August 7, 2002, the Department of Commerce ("Department") published the preliminary results of the administrative review of the antidumping duty order on stainless steel sheet and strip in coils from France. The merchandise covered by the order is stainless steel sheet and strip in coils ("SSSS") as described in the "Scope of the Review" section of the Federal Register notice. This review covers imports of subject merchandise from Uguine, S.A. ("Uguine") and Imphy Uguine Precision ("IUP").¹ The period of review ("POR") is July 1, 2000, through June 30, 2001.

Based on our analysis of the comments received, we have made changes in the margin calculation. Therefore, the final results differ from

¹ Uguine, in the instant review, refers to Uguine, S.A. and Imphy Uguine Precision ("IUP") as a single entity as they were collapsed by Uguine prior to submitting its antidumping duty questionnaire response. We note that Uguine and IUP were also treated as a collective entity during the first administrative review. See *Notice of Final Results of the Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France and accompanying Issues and Decision Memorandum* ("First Review Final") 67 FR 6493 (February 12, 2001) at Comment 1.

the preliminary results of review. The final weighted-average dumping margin for Uguine is listed below in the section entitled "Final Results of the Review."

EFFECTIVE DATE: December 26, 2002.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3208.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2002, the Department published *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review for Stainless Steel Sheet and Strip in Coils from France*, 67 FR 51210 (August 7, 2002) ("Prelim Results"). In accordance with 19 CFR 351.309(c)(ii), we invited parties to comment on our *Prelim Results*. On September 20, 2002, Uguine and the Petitioners² filed comments. On September 27, 2002, Uguine and the Petitioners filed rebuttal comments. Pursuant to 19 CFR 351.309(d)(2), the Petitioners were asked to re-submit their rebuttal comments and omit certain arguments that were not raised by Uguine. See Letter from the Department to the Petitioners, dated October 4, 2002. Consequently, the Petitioners submitted their revised rebuttal comments on October 7, 2002. We have now completed the administrative review in accordance with section 751 of the Act. On December 12, 2002, we extended the deadline for issuing the final results. See *Notice of Extension of Time Limit for the Final Results of the*

² The Petitioners in this case are Allegheny Ludlum Corporation, AK Steel, Inc., North American Stainless, United Steelworkers of America, AFL-CIO/CLC, Butler Armo Independent Union and Zanesville Armo Independent Organization.

For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720-5704.

Done at Washington, DC, on: December 30, 2002.

Garry L. McKee,
Administrator.

[FR Doc. 03-212 Filed 1-3-03; 8:45 am]

BILLING CODE 3410-DM-P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: January 8, 2003; 11:30 a.m.-2:30 p.m.

PLACE: RFE/RL Headquarters, 1201 Connecticut Avenue, NW., Suite 400, Washington, DC 20036.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b. (c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b. (c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b. (c) (2) and (6))

FOR FURTHER INFORMATION CONTACT: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401-3736.

Dated: December 30, 2002.

Carol Booker,
Legal Counsel.

[FR Doc. 03-274 Filed 1-2-03; 12:10 pm]

BILLING CODE 8230-01-M

DEPARTMENT OF COMMERCE

International Trade Administration [A-570-831]

Fresh Garlic From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of new shipper antidumping duty reviews: fresh garlic from the People's Republic of China.

EFFECTIVE DATE: January 6, 2003.

SUMMARY: The Department of Commerce has received requests to conduct four new shipper reviews of the antidumping duty order on fresh garlic from the People's Republic of China. In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended, and 19 CFR 351.214(d), we are initiating three new shipper reviews and not initiating one new shipper review.

FOR FURTHER INFORMATION CONTACT: Jeffrey Frank or Mark Ross at (202) 482-0090 and (202) 482-4794, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On November 26, 2002, we received a request for a new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China from Shandong Heze International Trade and Developing Company ("Shandong Heze"). In its request for review, Shandong Heze submitted copies of the invoice and bill of lading associated with the first sales that it made to the United States. However, the dates of sale and entry listed in the submitted documentation indicate that Shandong Heze's first sale to the United States was made more than one year before its November 26, 2002, request for a new shipper review. Thus, Shandong Heze's request was untimely filed pursuant to the deadline established in 19 CFR 351.214(c) and we will not initiate a new shipper review based on that request.

Instead, pursuant to its request in the alternative, we have initiated an administrative antidumping duty review of sales of subject merchandise made by Shandong Heze during the period of review, November 1, 2001 through October 31, 2002. See § 751 of the Tariff Act of 1930, as amended (the Act). See

Initiation of Antidumping and Countervailing Duty Administrative Reviews, 67 FR 78772 (December 26, 2002).

On November 21, 2002, we received a request for a new shipper review from Zhengzhou Harmoni Spice Co., Ltd. ("Zhengzhou"). On November 27, 2002, the Department received a request for a new shipper review from Xiangcheng Yisheng Foodstuffs Co., Ltd. ("Xiangcheng"). Also on November 27, 2002, we received a request for a new shipper review from Jining Trans-High Trading Co., Ltd. ("Jining Trans-High"). Zhengzhou identified itself as a Chinese producer and exporter of fresh garlic from the People's Republic of China. Xiangcheng and Jining Trans-High are Chinese exporters of fresh garlic from the People's Republic of China. The garlic exported by Xiangcheng was produced by Henan Yuyu Fruits & Vegetables Products Co., Ltd. ("Henan"). The garlic exported by Jining Trans-High was produced by Jining Yun Feng Agricultural Products Co., Ltd. ("Jining Yun Feng").

Initiation of Review

Pursuant to 19 CFR 351.214(b)(2)(i), Zhengzhou provided certifications that it had not exported subject merchandise to the United States during the period of investigation. Pursuant to 19 CFR 351.214(b)(2)(ii)(A), Xiangcheng and Jining Trans-High provided certifications that they had not exported subject merchandise to the United States during the period of investigation. Pursuant to 19 CFR 351.214(b)(2)(ii)(B), Henan and Jining Yun Feng, producers of garlic for Xiangcheng and Jining Trans-High, respectively, provided certifications that they had not exported subject merchandise to the United States during the period of investigation.

In accordance with 19 CFR 351.214(b)(2)(iii)(A), each of the three exporters, Zhengzhou, Xiangcheng, and Jining Trans-High, certified that, since the initiation of the original investigation, it has never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the period of investigation, including those not individually examined during the investigation. Also, each of the two producers, Henan and Jining Yun Feng, certified that, since the initiation of the original investigation, it has never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the period of investigation, including those not individually examined during the investigation.

As required by 19 CFR 351.214(b)(2)(iii)(B), each of the three exporters, Zhengzhou, Xiangcheng, and Jining Trans-High, certified that its export activities were not controlled by the central government. Also, each of the two producers, Henan and Jining Yun Feng, certified that its export activities were not controlled by the central government. Thus, the requests from Zhengzhou, Xiangcheng, and Jining Trans-High meet the content requirements set forth under 19 CFR 351.214(b)(2)(i)-(iii).

In addition, the companies submitted documentation establishing the following: (i) The date on which their subject merchandise was first entered, or withdrawn from warehouse, for consumption or the date on which the exporter or producer first shipped the subject merchandise for export to the United States; (ii) the volume of that and subsequent shipments; and (iii) the date of the first sale to an unaffiliated customer in the United States. Thus, the requests for review meet the content requirements set forth under 19 CFR 351.214(b)(2)(iv). Accordingly, pursuant to section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating new shipper reviews for shipments of fresh garlic from the People's Republic of China exported by Zhengzhou, Xiangcheng, and Jining Trans-High. The period of review covers the period November 1, 2001, through October 31, 2002. See 19 CFR 351.214(g). We intend to issue final results of this review no later than 270 days after the day on which these new shipper reviews are initiated. See 19 CFR 351.214(i).

We will instruct the Customs Service to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from the companies named above, until the completion of the review. As Zhengzhou has certified that it both produced and exported the subject merchandise exported to the United States during the relevant period of review, we will apply the bonding option under 19 CFR 351.107(b)(1)(i) only to subject merchandise for which

it is both the producer and exporter. For both Jining Trans-High and Xiangcheng, we will apply the bonding option under 19 CFR 351.107(b)(1)(i) only to entries of subject merchandise from these two exporters for which the respective producers under review are the suppliers.

The interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: December 31, 2002.

Susan H. Kuhbach,
Acting Assistant Secretary for Import Administration.

[FR Doc. 03-190 Filed 1-3-03; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Publication of annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period October 1, 2001 through September 30, 2002. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or Alicia Kinsey, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department

of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) ("the Act") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the Department's annual list of subsidies on articles of cheese that were imported during the period October 1, 2001 through September 30, 2002.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: December 31, 2002.

Susan H. Kuhbach,
Acting Assistant Secretary for Import Administration.

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross ¹ subsidy (\$/lb)	Net ² subsidy (\$/lb)
Austria	European Union Restitution Payments	0.12	0.12
Belgium	EU Restitution Payments	0.02	0.02
Canada	Export Assistance on Certain Types of Cheese	0.22	0.22